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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/086,821	05/29/1998	MARCO LARA	ATV-004	8789

21323 7590 06/10/2002

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EXAMINER

SALAD, ABDULLAHI ELMI

ART UNIT PAPER NUMBER

2153

DATE MAILED: 06/10/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Applicati n No.

09/086,821

Applicant(s)

LARA ET AL.

Examiner

Salad E Abdullahi

Art Unit

2153

-- The MAILING DATE f this communication appears on the cover she t with the c rrespondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) 1,6-16,20 and 25-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26-33 is/are allowed.
- 6) ☐ Claim(s) 1 and 6-16 is/are rejected.
- 7) ☒ Claim(s) 25 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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**Response to Amendment**

1. The Amendment filed on 03/26/2002 has been entered and made of record.
2. Applicant's arguments with respect to claims 1, 6-16 and 20 have been considered but are moot in view of the new ground(s) of rejection.

***Allowable Subject Matter***

3. Claim 25 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
4. Claims 26-33 are allowed.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 6-16, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Choquier et al U.S. Patent No. 5,774,668.

As per claim 1, 15 and 20, Choquier et al discloses a system for distributing client requests among two or more servers, comprising:

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monitoring the servers to determine if a predetermined condition (load metrics) exist at one or more of the servers (see the abstract, and col. 24, lines 13-53); and if the predetermined condition does exist at least one of the servers, redirecting by that server at least one client request from that server to another one of the servers (see the abstract, and col. 24, line 24 to col. 24, line 12).

Choquier et al does not explicitly disclose utilizing web servers.

Nonetheless, the utilization of web servers would have been obvious if it is not inherent to Choquier's system. Furthermore, Choquier et al teaches, the network 106 may include any network type, including, but not limited to, a packet switch local area network (LAN) such as Ethernet, or a circuit switched wide area network, such as the public switch telephone network (PSTN), and obviously including Internet (see fig. 1 and col. 4, line 63 to col. 5, line 17).

Therefore, given the teachings of Choquier it would have been obvious to one having ordinary skill in the art to modify Choquier by employing web servers, because web servers are readily accepted in the industry.

In considering claims 6-8, 14, ~~28, 30, 32 and 33~~, Choquier et al discloses a system, wherein the monitored step comprising monitoring one of:

server load, CPU utilization, memory utilization, request queue delay, and queue request length (see the abstract, and col. 24, line 24 to col. 24, line 12).

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In considering claims 9-13 and 16, Choquier et al., discloses a system, wherein the redirecting step comprising redirecting only if the request is for one predetermined set of content (see col. 13, lines 40-57).

### CONCLUSION

6. The prior art made of record and relied upon is considered pertinent to the applicant's disclosure.
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Abdullahi E. Salad** whose telephone number is **(703) 308-8441**. The examiner can normally be reached on **Monday to Friday from 8:30AM to 5:00PM**. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervise, **Glen Burgess**, can be reached at **(703)305-4792**. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is **(703)305-3900**.
8. **Any response to this action should mailed to:**

Box AF

Commissioner of Patents and Trademarks

Washington, DC 20231

**or faxed to:**

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(703) 746-7238, (after final communications)

(703) 746-7239, (Official communications)

(703) 746-7240, (Non-Official/Draft).

AS

6/2/2002

  
MOUSTAFA M. MEKY  
PRIMARY EXAMINER